

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Gregory Roble,

Plaintiff

v.

Ely State Prison, et al.,

Defendants

Case No. 2:24-cv-01991-CDS-EJY

Dismissal Order

Pro se plaintiff Gregory Roble brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Ely State Prison. ECF No. 1-1. On November 11, 2024, this court ordered Roble to file a fully complete application to proceed *in forma pauperis* or pay the full \$405 filing fee on or before December 2, 2024. ECF No. 4. The court warned Roble that the action could be dismissed if he failed to file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$405 filing fee for a civil action by that deadline. *Id.* at 2. In response, Roble filed an incomplete application to proceed *in forma pauperis*. ECF No. 5.

In light of Roble's attempt to file an application to proceed *in forma pauperis*, the Court extended the deadline for Roble to file a complete application to proceed *in forma pauperis* to February 12, 2025. ECF No. 8. That extended deadline expired, and Roble did not file a fully complete application to proceed *in forma pauperis*, pay the full \$405 filing fee, or otherwise respond.

I. Discussion

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule

1 requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d
2 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether
3 to dismiss an action on one of these grounds, the court must consider: (1) the public's interest in
4 expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of
5 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and
6 (5) the availability of less drastic alternatives. See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d
7 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

8 The first two factors, the public's interest in expeditiously resolving this litigation and
9 the court's interest in managing its docket, weigh in favor of dismissal of Roble's claims. The third
10 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
11 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
12 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
13 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
14 the factors favoring dismissal.

15 The fifth factor requires me to consider whether less drastic alternatives can be used to
16 correct the party's failure that brought about the need to consider dismissal. See *Yourish v. Cal.*
17 *Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic alternatives
18 *before* the party has disobeyed a court order does not satisfy this factor); accord *Pagtalunan v. Galaza*,
19 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not exhaust every sanction short of
20 dismissal before finally dismissing a case, but must explore possible and meaningful alternatives.”
21 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this court cannot operate without
22 collecting reasonable fees, and litigation cannot progress without a plaintiff's compliance with
23 court orders, the only alternative is to enter a second order setting another deadline. But issuing a
24 second order will only delay the inevitable and further squander the court's finite resources.
25 Setting another deadline is not a meaningful alternative given these circumstances. So the fifth
26 factor favors dismissal. Having thoroughly considered these dismissal factors, I find that they
27 weigh in favor of dismissal.

1 **II. Conclusion**

2 It is therefore ordered that this action is dismissed without prejudice based on Roble's
3 failure to file a fully complete application to proceed *in forma pauperis* or pay the full \$405 filing fee
4 in compliance with this court's November 1, 2024, and January 13, 2025, orders.

5 The Clerk of Court is kindly requested to enter judgment accordingly and close this case.
6 No other documents may be filed in this now-closed case. If Roble wishes to pursue his claims, he
7 must file a complaint in a new case and either pay the required filing fee or properly apply for *in*
8 *forma pauperis* status.

9 Dated: February 19, 2025

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12 Cristina D. Silva
13 United States District Judge
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